



## REPORT TO MAYOR AND COUNCIL

Draft for Planning Commission review  
on October 26, 2009

**Council Date: November 17, 2009**

**SUBJECT: 2009-0074-** Limitations on Signage for Alcohol Sales (Study Issue)

### **REPORT IN BRIEF**

The purpose of this study is to identify ways to address the potential conflict between school-aged children and alcohol signage. The City has several schools and parks near commercial businesses (some located immediately across a street from one), some of which sell and advertise alcoholic products.

The first action was to consider methods of regulating signs advertising alcohol products near schools and parks. This is extremely difficult due to First Amendment considerations of free speech. Given the tremendous efforts necessary to prove the need to regulate alcohol signs (and unlikely success of this effort), the other option was to use land use controls on the uses that advertise these products.

Staff recommends amending the Zoning Code (Attachment E) to add a new definition for "liquor store" as a business with more than 25% floor space devoted to the sale of spirits or hard alcohol, and then to prohibit those uses when within 200 feet of a public school site.

### **BACKGROUND**

This study issue was initiated by the City Council to address the placement of signs in windows and on buildings by businesses that advertise and sell alcohol and are located near or adjacent to schools and parks (see Attachment A for Study Issue paper). The idea surfaced during a study of groceries/alcohol sales at service stations to see how sign restrictions associated with those regulations could be expanded to other locations and uses. Consistent with State law, the Zoning Code prohibits alcohol signs at the gas pumps and in open displays within five feet of the cash register or entry.

Unlike the situation of alcohol advertising and fuel stations, the State does not provide any authority to the City to regulate alcohol advertising at any other location. As such, the City could not rely on statutory authority to enact an in-store alcohol advertising ban and must be able to satisfy the Constitutional requirements of free speech.

### Legal Framework

The Office of the City Attorney provided significant input to this study issue, specifically regarding laws and court cases on the legality of sign controls. In general, the First Amendment of the Constitution limits the City's ability to regulate sign content, including alcohol advertising. It would be difficult and cumbersome for the City to satisfy these limits of the Constitution. As discussed in greater detail below, the City must show that an enacted regulation substantially advances the City's stated interest, with evidence in support of the effectiveness of the regulation, and that other existing alternatives are not superior in terms of effectiveness and burden on speech. As Sunnyvale does not currently have any empirical evidence of a problem or how a ban on in-store alcohol advertising would reduce any such problem, such evidence would need to be collected to support a ban.

### **EXISTING POLICY**

#### **Land Use and Transportation Element:**

Goal C4: Sustain a strong local economy that contributes fiscal support for desired city services and provides a mix of jobs and commercial opportunities.

*Action Statement C4.1.3: Promote commercial uses that respond to the current and future retail service needs of the community.*

Policy N1.1: Protect the integrity of the City's neighborhoods; whether residential, industrial or commercial.

*Action Statement N1.1.1: Limit the intrusion of incompatible uses and inappropriate development into city neighborhoods.*

#### **Socio-economic Element:**

Policy H.5: Support programs that decrease drug and alcohol use and dependence in the community.

#### **State Department of Alcohol Beverage Control (ABC) Terminology:**

The terms used by ABC and in this report, such as various categories of off sale (to buy and take away) and on sale (consumed on site), are shown in Attachment B.

### **DISCUSSION**

The following is a brief overview of the legal issues associated with regulation of sign content. Given the restrictions the City has in enacting sign limitations, this report then primarily considers land use options to address the issue of how to limit the exposure of children to alcohol advertising. This approach is

used because zoning and land use regulation provides cities with greater flexibility to regulate than limitations on speech.

Although the concept of restricting signs advertising products (such as alcohol and tobacco products) which are considered undesirable by some people has positive aspects, the law does not allow the City to enact or enforce those restrictions without evidence in support of the effectiveness of the regulation. This report provides a brief background of the situation in the City regarding businesses that sell alcohol near schools and parks and discusses possible options to address the concerns of Council.

## **Legal Issues**

### *Constitutional Protection of Free Speech*

Whether the City seeks to impose a complete ban or limitation on alcohol advertising within a certain distance from a school or park, the same constitutional protections apply. The constitutional test applied to determine whether a city ordinance violates the First Amendment freedom of speech is known as the *Hudson* test and requires: (1) commercial speech concerning a lawful activity and speech that is not misleading, (2) a substantial governmental interest, (3) that the regulation directly advances the asserted government interest, and (4) that the regulation is not more extensive than necessary to serve the asserted interest.

To prevail on a constitutional challenge if the City implements a ban or limitation on alcohol advertising, the City would need to establish the following:

- First, the City must articulate a “substantial interest” that it is trying to advance through the ban. For example, the interest may be to reduce consumption of alcohol by minors.
- Second, the City bears the burden of proving that the ban or limitation “materially advances” the interest of decreasing consumption of alcohol by minors. There must be evidence to support the notion that having the ban in place will reduce consumption of alcohol by minors. Evidence may include studies that show that minors pay particular attention to in-store advertising, effectiveness of in-store window advertising, that in-store advertising increases consumption of alcohol even when other advertising is simultaneously used, and that children have a particular awareness of the in-store window advertising.
- Third, the City must show that the ban or limitation is a “reasonable fit” to achieve the goal of reducing minors’ consumption of alcohol. This would include the City demonstrating that any less-burdensome alternatives to the proposed ban or limitation would be less effective or

inappropriate in some way. For example, less burdensome alternatives alleged may include increasing alcohol fees, increasing law enforcement efforts against minors' consumption, initiating "party patrols" based on community tips, and setting curfews. However, if the City can show either that the less-burdensome alternatives are not workable or that the City is already participating in many of these less-burdensome activities, and that the ban complements an already established initiative to limit minors' consumption of alcohol, the City has a greater chance of success in proving that the ban is a reasonable fit to attain the asserted goal.

Because of the stringent requirements that protect commercial speech, it would be difficult for the City to meet this burden in enacting a ban on alcohol signage. Evidence would need to be gathered to satisfy the Constitutional requirements and support such a ban.

### Zoning Ordinances

Cities have greater flexibility and deference under their police powers in enacting zoning ordinances for land use than they have for sign regulations. To be valid, a zoning ordinance must not be arbitrary and must reasonably relate to the community's general welfare. It would be much easier for the City to enact a zoning ordinance restricting alcohol sales than to prohibit or limit in-store alcohol advertising.

### **Current Situation**

Restricting alcohol sales to protect children from exposure to the product advertising can occur in many different ways. The decision depends on several factors, such as where to draw the line to affect the uses (schools and parks, or just schools), whether to include off sales businesses, such as a liquor store or grocery store, and/or on sales businesses such as a restaurant or bar.

The map shown in Attachment C shows the location of all public schools and parks in the City, and the businesses within 200 and 500 feet of those facilities. Individual maps of those areas are included in Attachment D, showing which businesses sell alcohol and which include signs advertising alcohol. Private schools on public school district properties are included in the maps (e.g. French American School, King's Academy). Other private schools on private property are not included because they tend to be less permanent and include small tutoring centers, where larger private schools that include Grades K-8 are located on public school sites.

As seen in these attachments, there are 33 school and park nodes in the City, and for 12 of these nodes, there are businesses that sell alcohol within 500 feet of a school or park facilities. Of those 12, some are restaurants (P.F Chang's, Ginger Café and several on Murphy Avenue), some are grocery or drug stores (Safeway, CVS/Longs), and some are mini-marts. Not all businesses that sell

alcohol have signs visible from the outside advertising alcohol. In fact, staff identified only six locations within the 500-foot parameter for schools and parks that include signs advertising alcohol outside the building.

Each of the six areas is described in more detail below (see Attachment D for detailed maps):

1. Encinal Park: There is a strip commercial center on Mary Avenue near the park, with a mini-mart that faces Mary Avenue with 2-3 small alcohol product signs in the windows.
2. Bishop Elementary: Immediately across Maude Avenue from the school is a mini-mart that has window signs advertising various alcoholic products. This is probably the most obvious example of a business with alcohol signs adjacent to a school in the City.
3. Plaza del Sol: There are several businesses along Murphy Avenue that sell and advertise alcoholic products.
4. Ellis Elementary: At the corner of Fair Oaks and Old San Francisco Road, a restaurant has a few window signs advertising alcohol products. Also, the 7-11 market further down Old San Francisco Road has one small window sign advertising alcohol.
5. Fremont High School: There are two liquor stores within 500 feet of the high school that sell and advertise alcohol, as well as a restaurant with one small sign in its window.
6. Peterson Middle School: There is a small liquor store on El Camino Real that is on the edge of the 500 foot buffer that sells alcohol and has several alcohol product window signs.

As shown in the list above, the signs advertising alcohol are window signs. Although some businesses have the word “alcohol” or “liquor” in their business name (such as Market Liquor in the commercial center near Encinal Park), most businesses have window signs advertising specific alcoholic products. For purposes of public safety, state law limits the amount of alcohol related window signage coverage to 33% of the total window area, but permits local agencies to more stringently limit coverage. The Sunnyvale Zoning Code limits all window signage to 25% coverage.

### **Options**

The options available to the City for limiting alcohol signs near schools and parks are limited. The City can limit all signs to specific sizes and numbers, but such limitations would apply to all uses, and not just those advertising alcoholic products. As stated earlier, the City’s better option is to limit alcohol sales through land use regulation.

One option would be to prohibit the sale of alcohol in specified zones throughout the City (e.g. C-1 and C-2 commercial zones), but this could affect stores such as Safeway, Lucky, Bev-Mo, Longs/CVS, Walgreen's and Rite Aid, as well as numerous restaurants. Also, many businesses (such as Safeway and Seto Japanese Cuisine) sell alcohol, but do not have signs for those products, so these businesses do not contribute to the perceived problem.

A different option is to limit the sale of alcohol from those uses that have greatest number of alcohol signs, which are stores with a majority of floor space devoted to the sale and promotion of alcohol. A combination of the following options are possible:

*Define "Liquor Store" in Code-* In order to differentiate grocery stores from liquor stores, a new definition would need to be created. An example would be "An off sale business with more than 25% gross floor space devoted to the sale, promotion and storage of alcohol products."

*Choose whether any option includes school sites only, or both school sites and parks-* In order to implement any code requirement for limiting businesses that sell alcohol products, it needs to be decided whether the code requirements will apply to school sites (private or public) or both schools and park sites.

*Either prohibit or require a permit for Liquor Stores within a specified distance from schools and/or parks-* Businesses that provide off sale of alcohol are currently permitted by right in the Zoning Code (except at service stations, which requires a Use Permit). This permission includes grocery stores, drug stores and liquor stores. If a new definition is created for liquor stores, the code could be amended to prohibit those uses near a school or park or require proposed businesses to obtain a Miscellaneous Plan Permit or Use Permit. If a permit requirement option is chosen, findings will need to be prepared.

*Distance From Schools or Parks-* If Council decides to amend the code to either prohibit or require liquor stores to obtain a discretionary permit, it needs to be determined if that requirement applies only to properties within a specific distance from a school or park. Options vary, but using either 200 feet or 500 feet are feasible alternatives because those distances capture properties most likely to impact where children congregate (see maps in Attachment D for understanding of affected areas). If this option is chosen, and a specific distance is used, the City needs to provide a reason why that distance is used.

*Specific Zoning Districts-* The last important aspect of a code revision to consider is whether the requirements would apply to all zoning areas, or to limit them to a specific zone. Requiring them in all zones could impact properties on El Camino Real, which do not relate to the neighborhoods in which children congregate. Another option is to have the regulations apply only to the C-1, Neighborhood Commercial, zoning district, where most schools and parks are located.

*Prospective Application-* Any proposed change is anticipated to apply only to future proposals, and would not affect existing businesses. An amortization program to bring existing businesses into current requirements is costly and time consuming to the City.

### **Summary**

Land use is the most effective tool a city has to control the placement of uses and ensure community values are met. Although there are specific cases in the City where alcohol signs are evident near schools and parks, they are not overly prevalent. Creating a liquor store definition and distance requirements from school and parks would effectively control future businesses that want to locate near these sensitive uses. The other option of requiring off sale alcohol businesses to obtain a permit (such as an MPP or Use Permit) would allow the City to review each application and make findings as to whether or not a permit should be issued depending on its proximity to schools and/or parks and floor sale area devoted to alcohol. It needs to be noted, however, that the City could not use the discretionary permit to regulate the type of signs for the subject application based on content. Absent evidence in support of a speech limitation as discussed above, that constitutional protection of speech would remain in place whether or not a specific permit is required.

### **FISCAL IMPACT**

If the code is changed to limit businesses selling alcohol within close proximity to school and parks, there could be a decrease in tax revenue. It is not possible to determine the amount of decrease because it is unknown if there will be an overall decrease in sales, or just a redistribution to other locations in the City.

There would be additional staff time needed if a separate permitting process is implemented for properties near schools and/or parks. There are approximately eight properties within 200 feet and 25 properties within 500 feet of public school sites and parks that sell and advertise alcohol, and it is feasible to assume a proportion of those would request a permit to sell alcohol in those locations. Potential applications would be expected to be few. Fees would cover or offset the costs of processing the applications.

### **PUBLIC CONTACT**

Public Contact was made through posting of the Planning Commission agenda on the City's official-notice bulletin board, on the City's Web site, and the availability of the agenda and report in the Office of the City Clerk.

Also, two public outreach meetings were held on the issue, and one person showed up at each meeting. One participant was the owner of a Sunnyvale bar concerned about how the issue would affect his business. The other person

was a member of a neighborhood association (and City Council member) interested in the issue.

### **ALTERNATIVES**

1. Introduce the attached ordinance (Attachment E) to amend Title 19 to create definitions for “liquor store” as off sale businesses with greater than 25% gross floor area devoted to the sale, display and storage of spirits or hard alcohol products, and “public school site” for properties owned by public school district that are currently, or could be used as a school.
2. Amend the Commercial Zoning District Tables to:
  - a. Prohibit liquor stores in a C-1 Zone and located within 200 feet of a public school site.
  - b. Same as 2.a., but include park sites.
3. Staff to return with a zoning ordinance to amend the Code requiring a specific permit type (Use Permit or Miscellaneous Plan Permit) for liquor stores in a C-1 Zone, along with required findings and general procedures.
4. Adopt with other revisions as desired by Council.
5. Staff to return with further research and discussion of impacts to implement an amortization program for businesses that would be subject to the new ordinance requirements.
6. Make no changes and allow the sale of alcohol products as currently required.

### **RECOMMENDATION**

Staff recommends Alternative 1 and 2.a., creation of new definitions for liquor stores and public school sites, and the prohibition of liquor stores within 200 feet of a public school site. Staff recommends omitting parks from the ordinance because alcohol usage is allowed on limited bases in parks, and it seems unreasonable to limit the sale of alcohol near these facilities where consumption is allowed. Also, staff recommends an outright ban on liquor sales in these locations rather than requiring a Use Permit because it is a more definitive land use policy direction, and removes the need to make findings for a permit decision.

Amending the zoning code would ensure that future liquor stores would not be located near schools and the impact to children would be mitigated to the extent possible. The 200 foot distance is used because that captures commercial sites whether currently used for off sale alcohol businesses or not, and that relate the most to schools in proximity and access. The 25% floor area is recommended because that would capture those stores most likely to be considered by the consumer as a liquor store, rather than a grocery store.

Finally, staff does not recommend implementing an amortization program to phase out existing businesses that are located within the buffer because the cost to implement such a program is expensive for the City, and no study has shown that existing businesses have caused a detrimental impact on children near these businesses.

Reviewed by:

Hanson Hom, Director, Community Development  
Reviewed by: Trudi Ryan, Planning Officer  
Prepared by: Andrew Miner, Principal Planner

Approved by:

Gary M. Luebbbers  
City Manager

**Attachments**

- A. 2009 Study Issue Paper
- B. State Department of Alcohol Beverage Control (ABC) Terminology
- C. Map of entire City showing location of alcohol sales within 200 and 500 feet of schools and parks
- D. Maps showing specific locations within 200 and 500 feet of schools or parks that have alcohol product window signs
- E. Draft Ordinance amendments to Zoning Code

ATTACHMENT A

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Proposed 2009 Council Study Issue

**CDD-04 Limitations on Signage for Alcohol Sales**

<b>Lead Department</b>	Community Development
<b>Element or Sub-element</b>	Land Use and Transportation Element
<b>New or Previous</b>	Previous
<b>Status</b>	Pending
<b>History</b>	1 year ago Below the line 2 years ago None

**1. What are the key elements of the issue? What precipitated it?**

This study would look at the options of limiting signs that advertise alcohol. The Sunnyvale sign code does not allow off-site signage to advertise businesses or products, therefore this study would be limited to a review of on-site signage only.

The City Council was recently provided information on the State requirements for signage when there is sale of alcohol at gasoline stations. This study would explore expanding that authority to other uses that sell alcohol. The study would also explore limitations on signs/advertising in proximity to specified uses (e.g. school, parks, etc.).

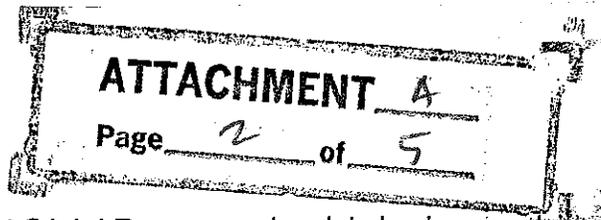
Generally, the City of Sunnyvale has the authority to regulate the use and development of property, including regulations for signage. The State of California has some laws that pre-empt local sign regulations (e.g. signage requirements for gasoline sales, lottery). The study would explore permanent and temporary sign regulations (including window signs) for alcohol sales and products and examine any options for regulation. The sign standards that were adopted by the City Council, in 2007, for service stations would be evaluated to determine the feasibility of expanding these standards to other uses. ABC would be contacted to understand any current restrictions on alcohol related advertising.

The State also has requirements that a full inventory of signage must be made prior to any local sign code modifications that might result in more restrictive standards. Amortization of non-conforming signs must be accomplished in accordance with State guidelines. Although staff makes no recommendation on the study, the Council may wish to consider a study and potential implementation program that does not include an amortization program. The study could look at any state exemptions for temporary signs, however an amortization program would require a full inventory of signs and on-going field review to check the status of the amortization. An additional 500 hours would need to include amortization in the scope.

**2. How does this relate to the General Plan or existing City Policy?**

**LAND USE AND TRANSPORTATION**

**GOAL C1** Preserve and enhance an attractive community, with a positive image and a sense of place, that consists of distinctive neighborhoods, pockets of interest, and human-scale development.



**Action Statement C1.1.1** Prepare and update land use and transportation policies, design guidelines, regulations and engineering specifications to reflect community and neighborhood values.

**GOAL C4** Sustain a strong local economy that contributes fiscal support for desired city services and provides a mix of jobs and commercial opportunities.

**Action Statement C1.1.1** Prepare and update land use and transportation policies, design guidelines, regulations and engineering specifications to reflect community and neighborhood values.

**Action Statement C4.1.3** Promote commercial uses that respond to the current and future retail service needs of the community.

**Policy C4.3** Consider the needs of business as well as residents when making land use and transportation decisions.

**SOCIO-ECONOMIC ELEMENT**

**Policy H.5** Support programs that decrease drug and alcohol use and dependence in the community.

**Action Statement H.5a** Target drug and alcohol education and enforcement efforts to youth and schools.

**3. Origin of issue**

- Council Member(s)** Howe, Whittum
- General Plan**
- City Staff**
- Public**
- Board or Commission** none

**4. Multiple Year Project?** No **Planned Completion Year** 2008

**5. Expected participation involved in the study issue process?**

- Does Council need to approve a work plan?** No
- Does this issue require review by a Board/Commission?** Yes
- If so, which?**
- Planning Commission
- Is a Council Study Session anticipated?** No
- What is the public participation process?**
- Outreach to businesses and residents as well as public hearings with Planning Commission and City Council.

**6. Cost of Study**

- Operating Budget Program covering costs**
- 242 – Land Use Planning
- Project Budget covering costs**

Budget modification \$ amount needed for study  
Explain below what the additional funding will be used for

7. Potential fiscal impact to implement recommendations in the Study approved by Council

Capital expenditure range None  
Operating expenditure range None  
New revenues/savings range None  
Explain impact briefly

8. Staff Recommendation

Staff Recommendation None

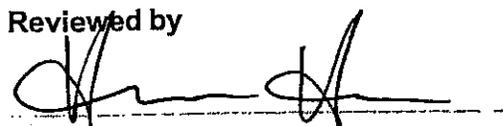
If 'For Study' or 'Against Study', explain

9. Estimated consultant hours for completion of the study issue

Managers	Role	Manager	Hours	
Lead	Ryan, Trudi	Mgr CY1:	40	Mgr CY2: 0
		Staff CY1:	200	Staff CY2: 0
Support	Verceles, Connie	Mgr CY1:	40	Mgr CY2: 0
		Staff CY1:	0	Staff CY2: 0
Interdep	Berry, Kathryn	Mgr CY1:	40	Mgr CY2: 0
		Staff CY1:	0	Staff CY2: 0
Total Hours CY1:			320	
Total Hours CY2:			0	

Note: If staff's recommendation is 'For Study' or 'Against Study', the Director should note the relative importance of this Study to other major projects that the Department is currently working on or that are soon to begin, and the impact on existing services/priorities.

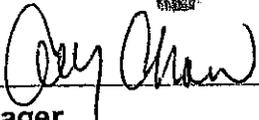
Reviewed by



Department Director

10/9/08  
Date

Approved by

  
\_\_\_\_\_  
City Manager

10/30/08  
Date

**Addendum**

**A. Board / Commission Recommendation**

**Issue Created Too Late for B/C Ranking**

<b>Board or Commission</b>	<b>Rank</b>	<b>Rank</b>
	<b>1 year ago</b>	<b>2 years ago</b>
Arts Commission		
Bicycle and Pedestrian Advisory Committee		
Board of Building Code Appeals		
Board of Library Trustees		
Child Care Advisory Board		
Heritage Preservation Commission		
Housing and Human Services Commission		
Parks and Recreation Commission		
Personnel Board		
Planning Commission	Drop	

**Board or Commission ranking comments**

**B. Council**

**Council Rank** (no rank yet)  
**Work Plan Review Date** (blank)  
**Study Session Date** (blank)  
**RTC Date** (blank)  
**Actual Complete Date** (blank)  
**Staff Contact**

State Department of Alcohol Beverage Control (ABC) Terminology

The following are terms used in this report, and are commonly used in discussing the issues found in this report:

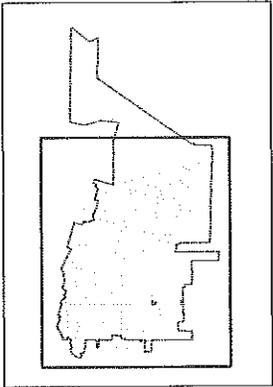
- Off Sale Beer & Wine: Authorizes the sale of beer and wine for consumption off the premises where sold. Minors are allowed on the premises.
- Off Sale General: Same as above, with the addition of allowing the sale of distilled spirits.
- On Sale Beer: Authorizes the sale of beer for consumption on or off the premises where sold. No wine or distilled spirits may be on the premises. Full meals are not required; however, sandwich or snacks must be available. Minors are allowed on the premises.
- On Sale Beer and Wine- Eating Place (Restaurant): Same as the above, except wine sale is allowed, and it must operate and be maintained as a bona fide eating place with suitable kitchen facilities. Minors are allowed on the premises.
- On Sale Beer and Wine- Public Premises (Bar, Tavern): Authorizes sale of beer and wine for consumption on or off the premises where sold. No distilled spirits may be on the premises. Minor are not allowed to enter and remain and food service is not required.
- On Sale General- Eating Place (Restaurant): Same as On Sale Beer and Wine- Eating Place, with the addition of allowing the sale of distilled spirits, and all consumption of distilled spirits must be on site.
- On Sale General- Public Premises (Bar, Night Club): Same as On Sale Beer and Wine- Public Premises, except allows sale of distilled spirits.



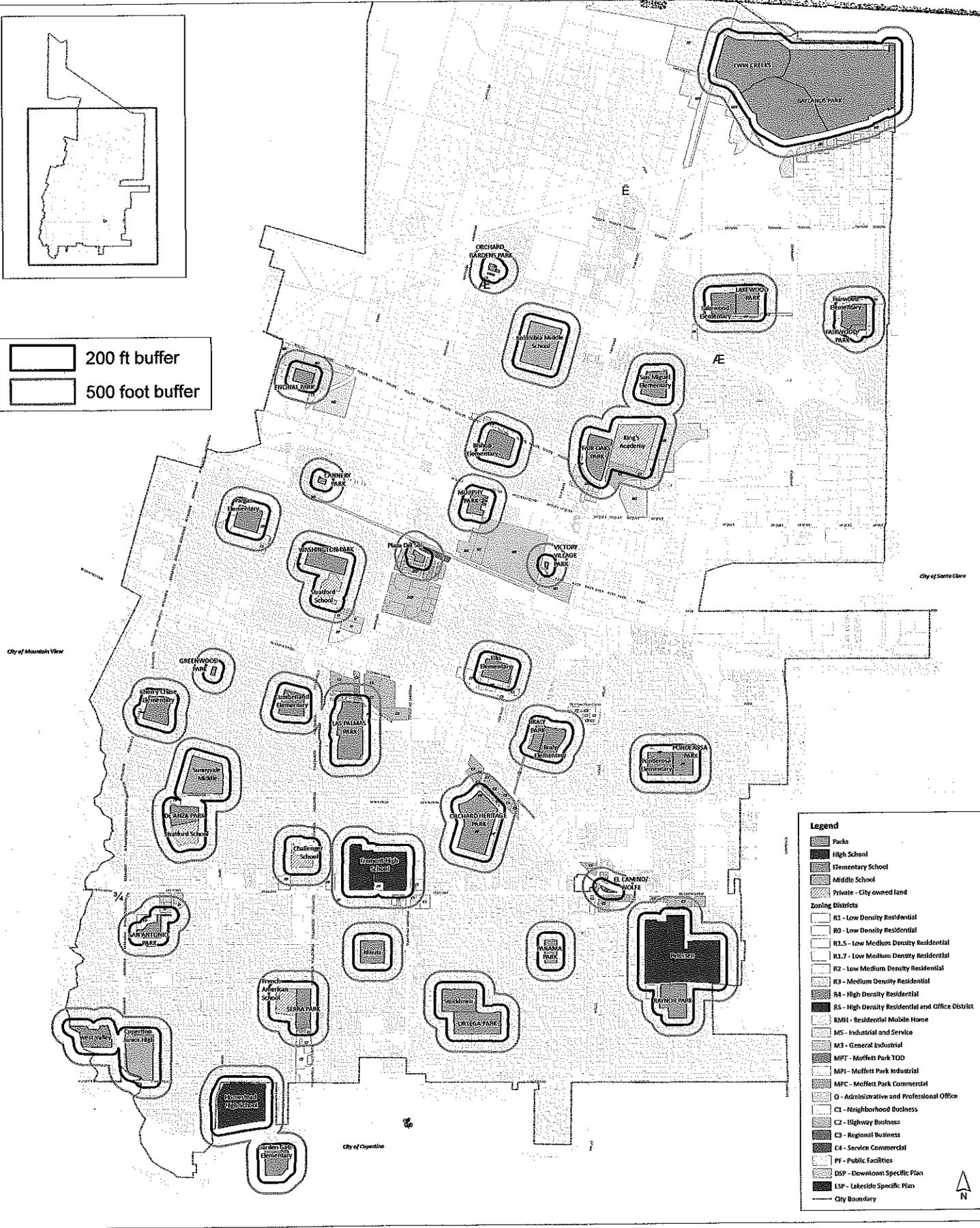
# Non-Residential Zoning Districts near Parks and

# ATTACHMENT C

## Study Issue: Limitations on Signs for Alcohol Sales



 200 ft buffer  
 500 foot buffer



**Legend**

- Parks
- High School
- Elementary School
- Middle School
- Private - City owned land

**Zoning Districts**

- R1 - Low Density Residential
- R0 - Low Density Residential
- R1.5 - Low Medium Density Residential
- R1.7 - Low Medium Density Residential
- R2 - Low Medium Density Residential
- R3 - Medium Density Residential
- R4 - High Density Residential
- R5 - High Density Residential and Office District
- RM1 - Residential Mobile Home
- MS - Industrial and Service
- M3 - General Industrial
- MPT - Moffett Park TOD
- MPI - Moffett Park Industrial
- MPC - Moffett Park Commercial
- O - Administrative and Professional Office
- CI - Neighborhood Business
- C2 - Highway Business
- C3 - Regional Business
- C4 - Service Commercial
- PF - Public Facilities
- DSP - Downtown Specific Plan
- LSP - Lakeside Specific Plan

City Boundary



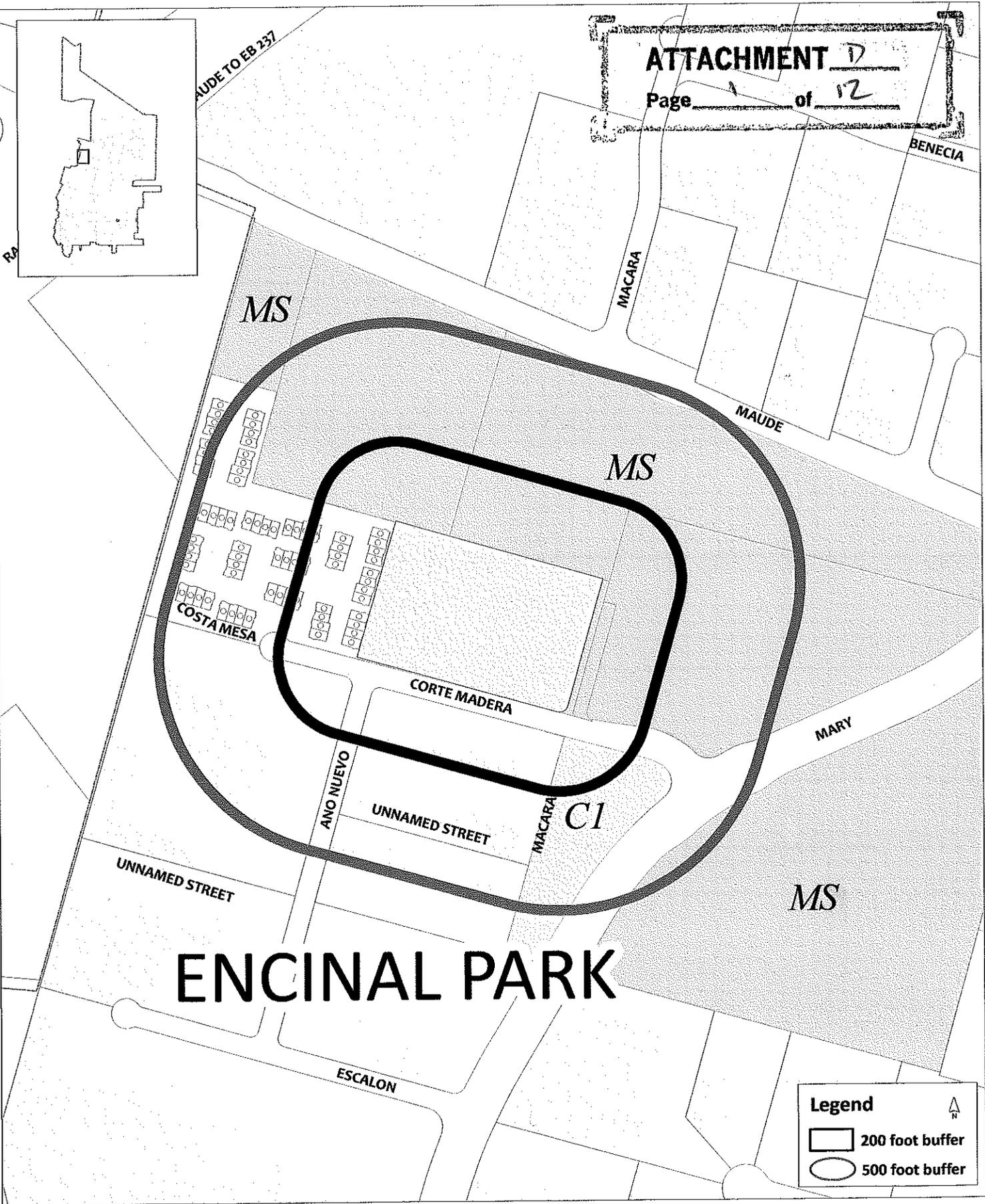


# Non-Residential Zoning Districts near Parks and Schools

Study Issue: Limitations on Signs for Alcohol Sales

ATTACHMENT D

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### Legend

- 200 foot buffer
- 500 foot buffer





# Non-Residential Zoning Districts near Parks and Schools

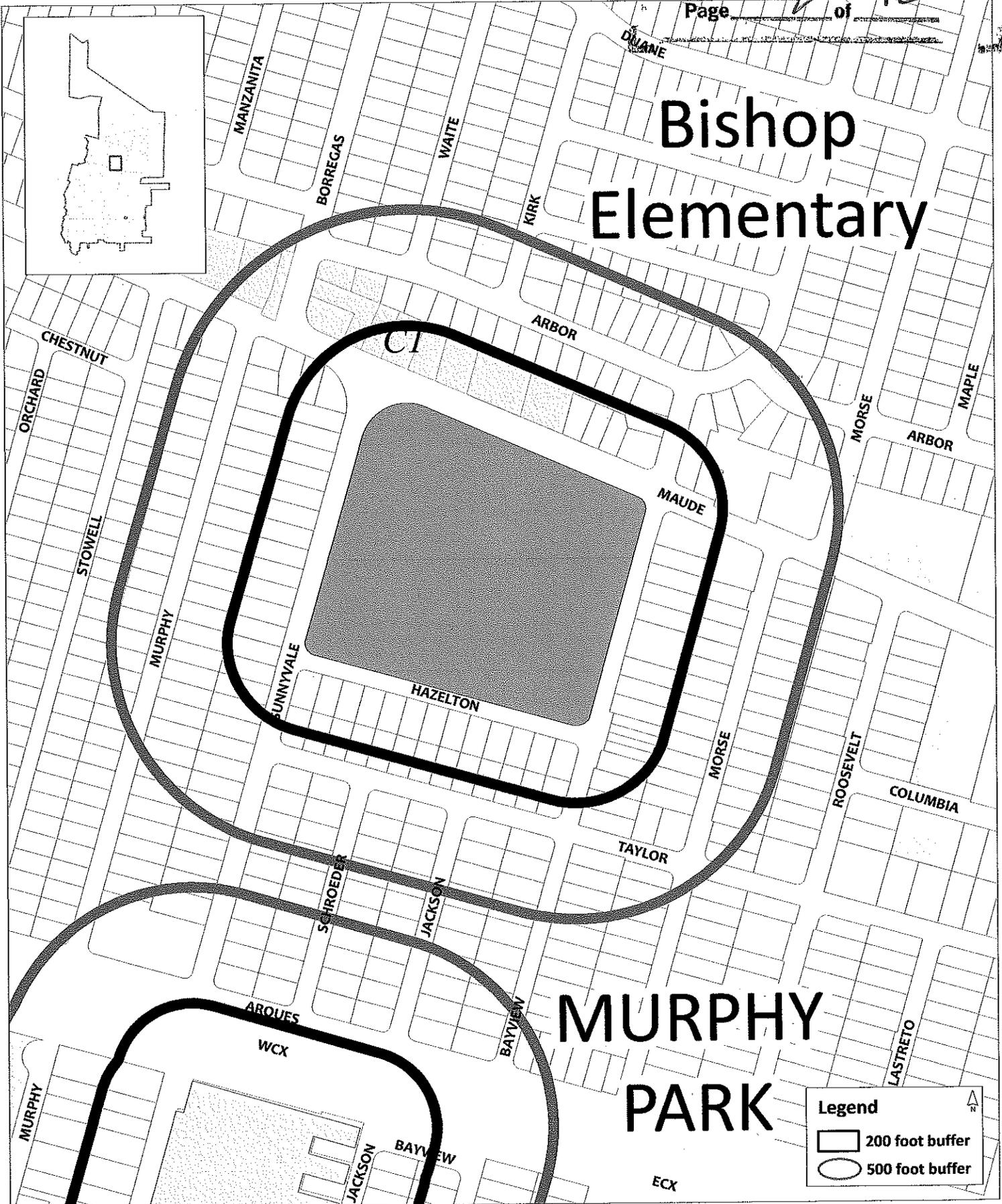
Study Issue: Limitations on Signs for Alcohol Sales

ATTACHMENT D

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## Bishop Elementary

## MURPHY PARK



**Legend**

-  200 foot buffer
-  500 foot buffer



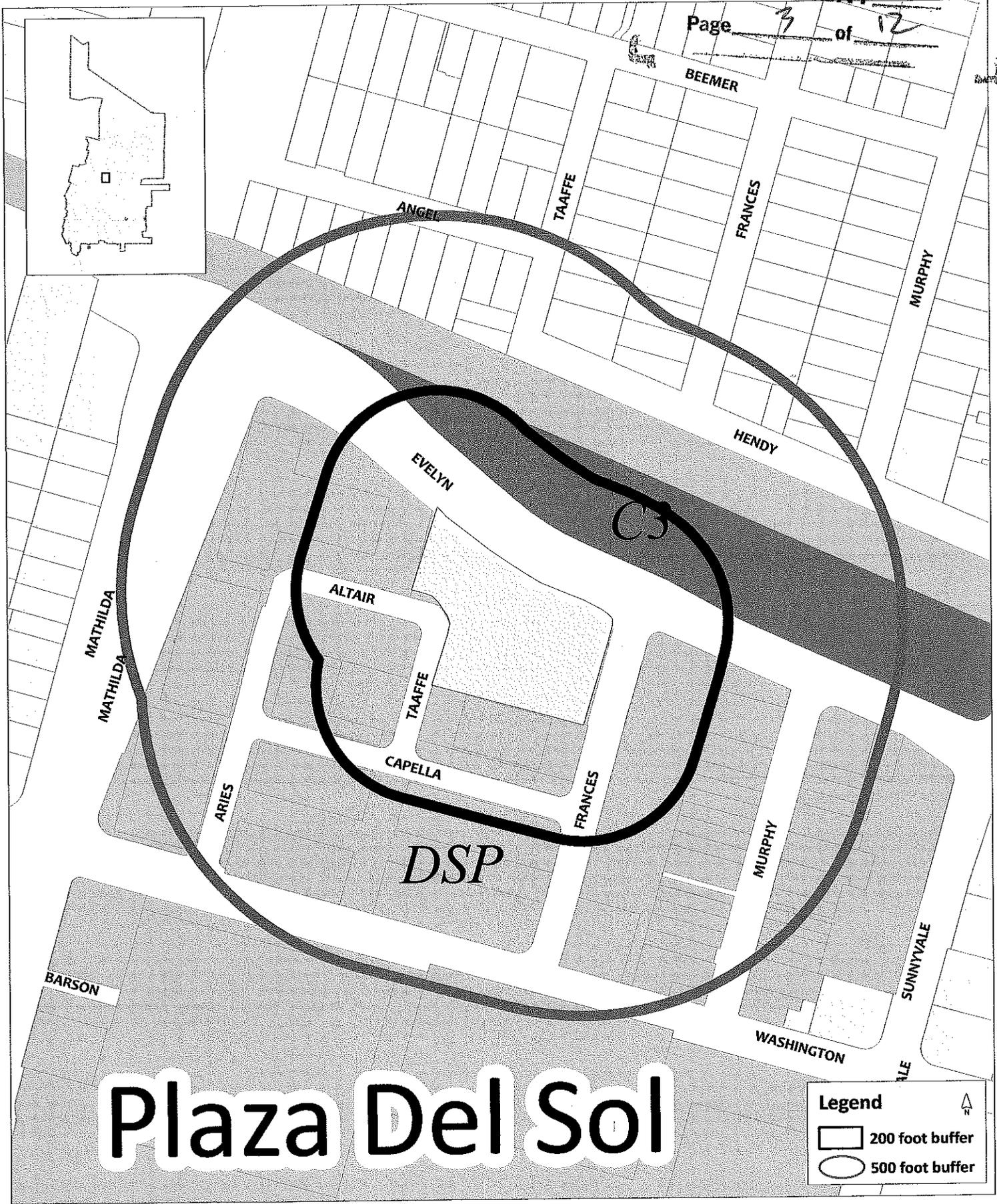


# Non-Residential Zoning Districts near Parks and Schools

Study Issue: Limitations on Signs for Alcohol Sales

ATTACHMENT D

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# Plaza Del Sol

**Legend**

-  200 foot buffer
-  500 foot buffer

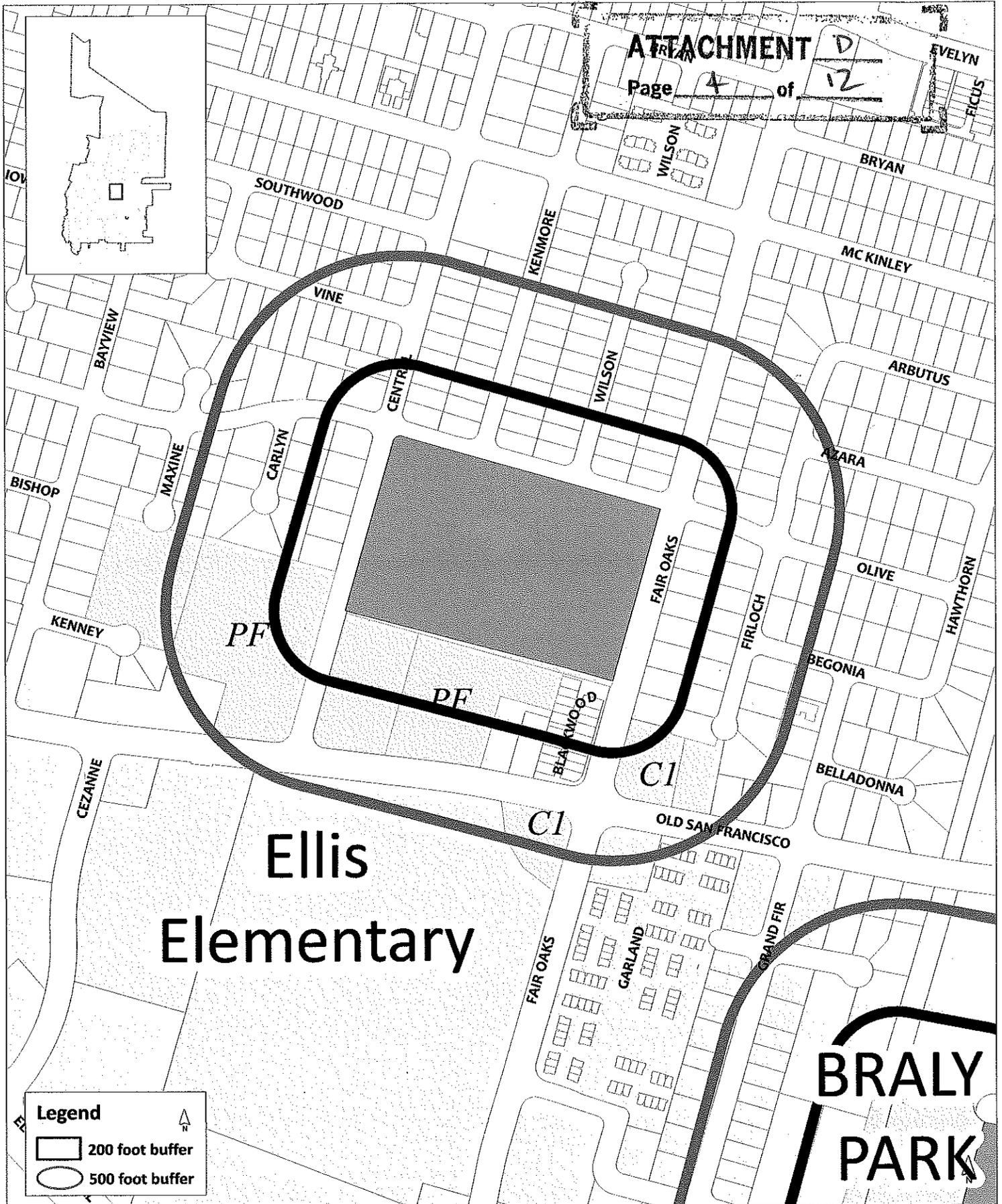




# Non-Residential Zoning Districts near Parks and Schools

Study Issue: Limitations on Signs for Alcohol Sales

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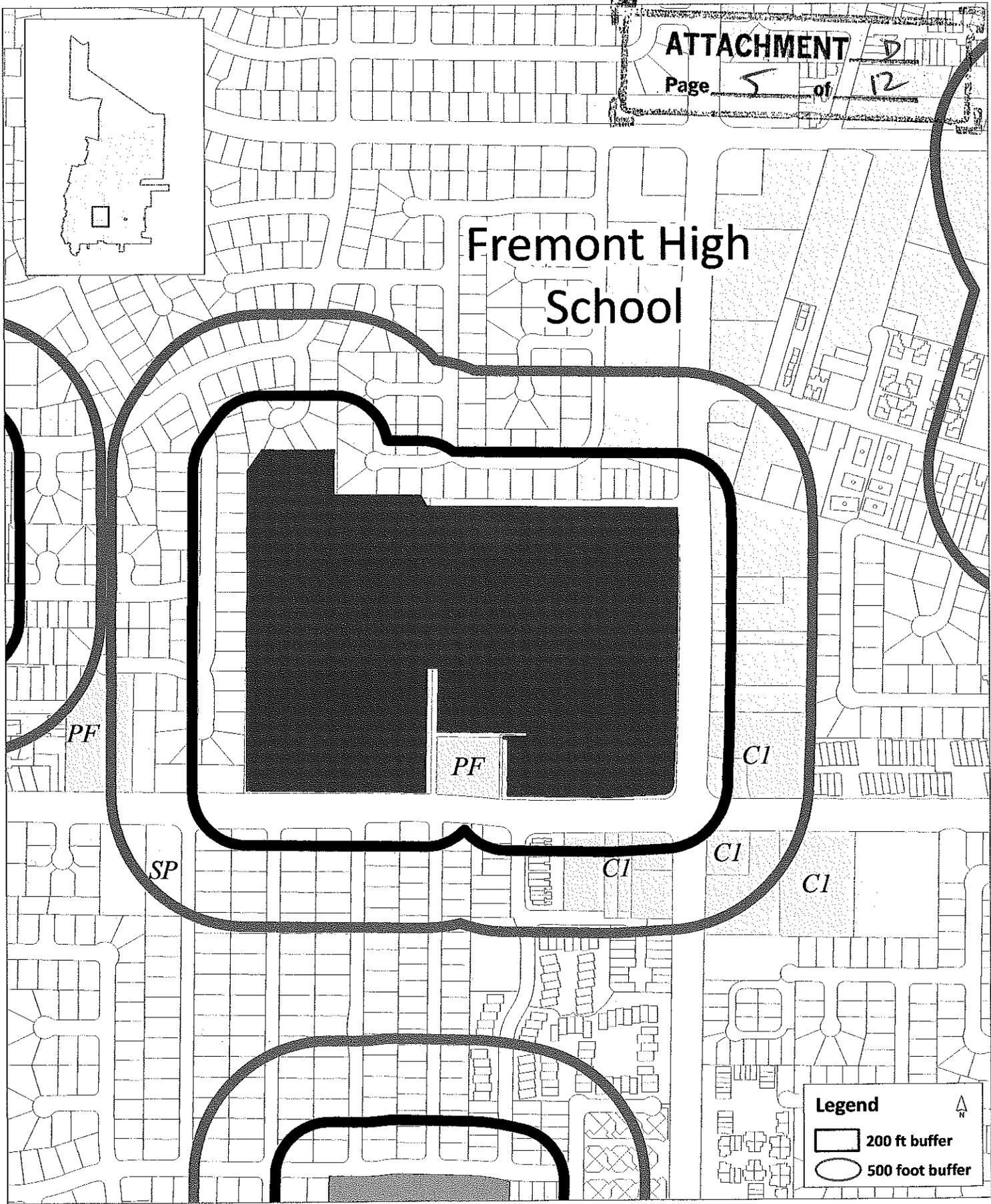
# Non-Residential Zoning Districts near Parks and Schools

Study Issue: Limitations on Signs for Alcohol Sales

ATTACHMENT **B**

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## Fremont High School



### Legend

-  200 ft buffer
-  500 foot buffer



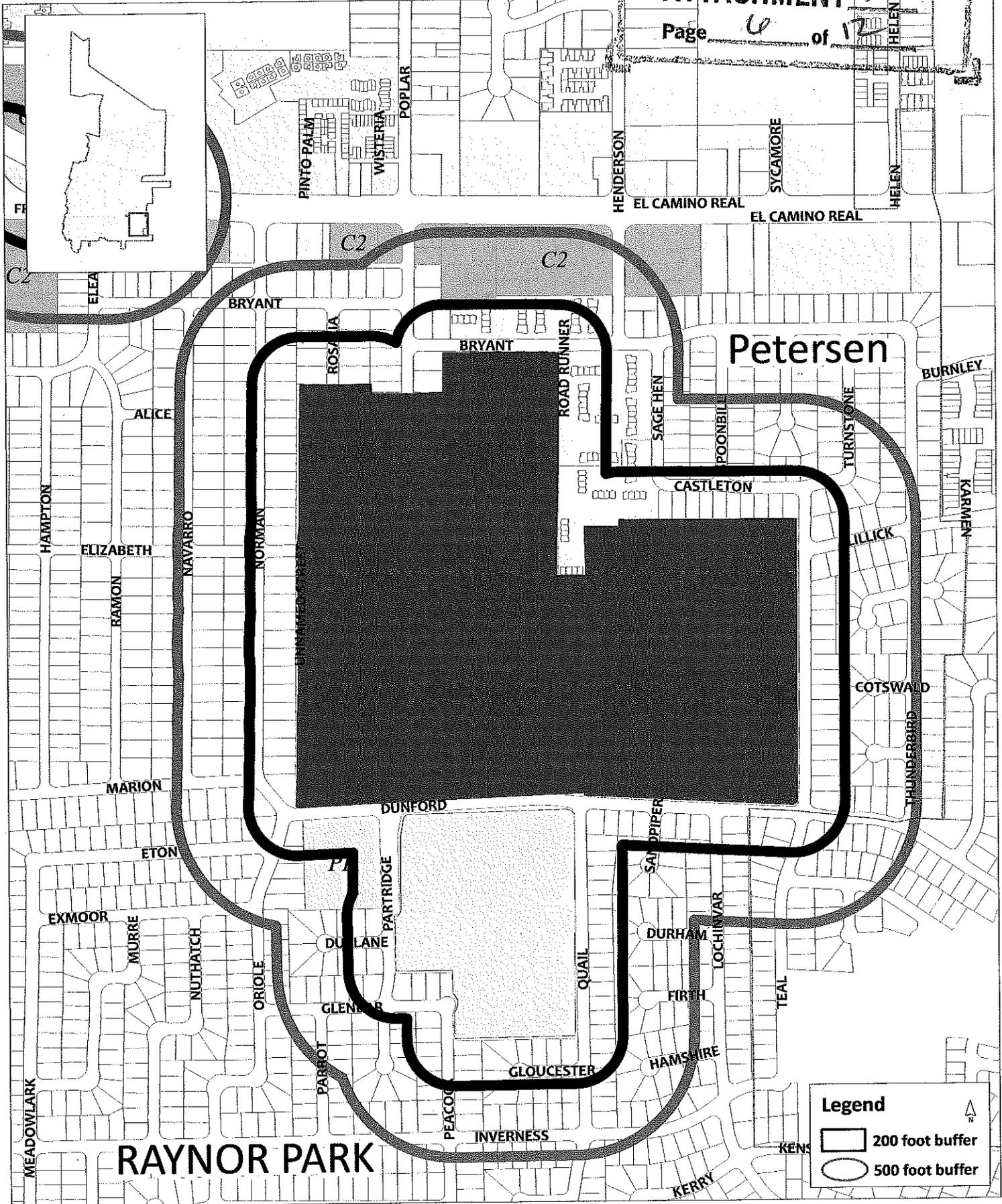


# Non-Residential Zoning Districts near Parks and Schools

Study Issue: Limitations on Signs for Alcohol Sales

ATTACHMENT D

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### Legend

-  200 foot buffer
-  500 foot buffer







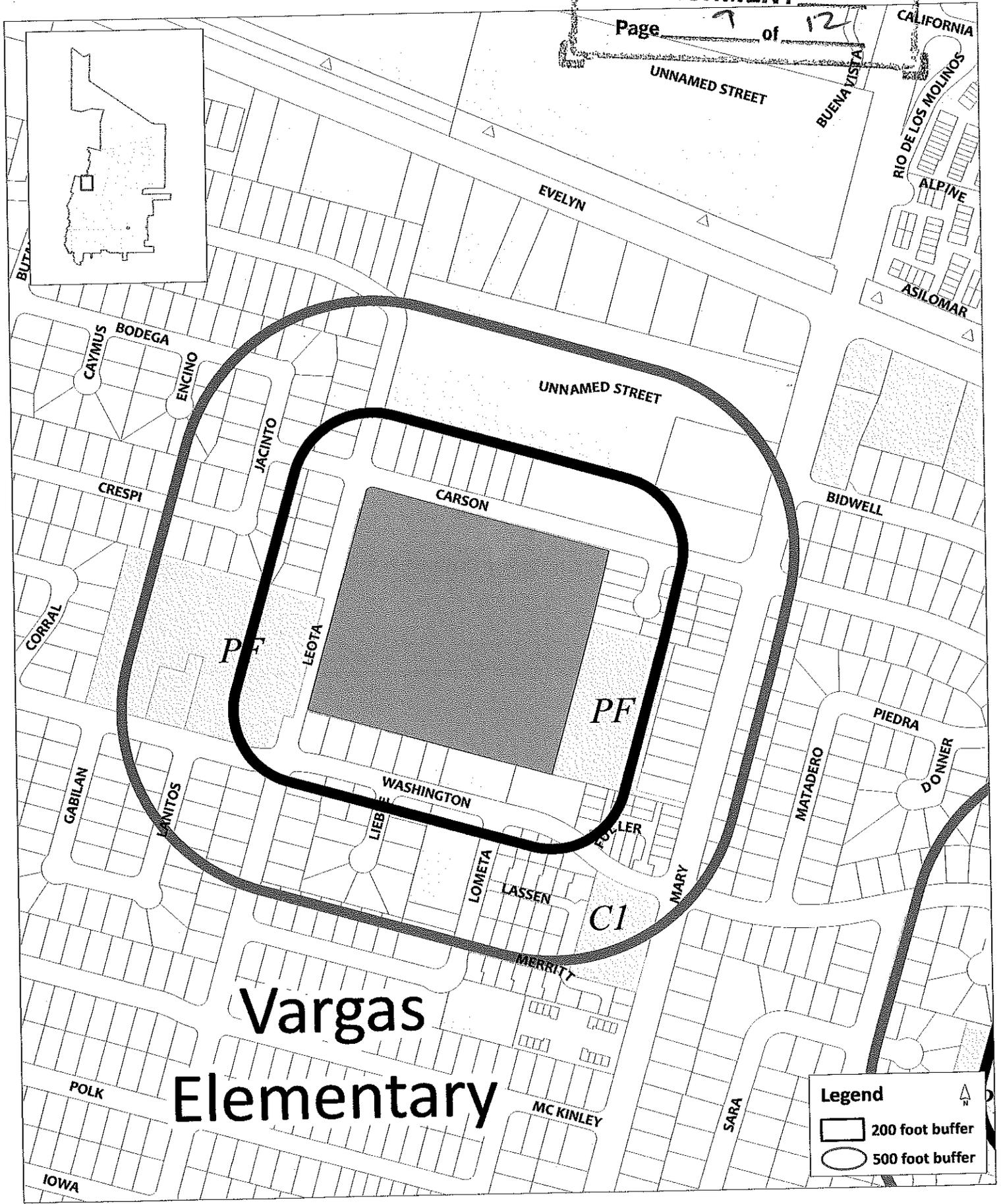


# Non-Residential Zoning Districts near Parks and Schools

Study Issue: Limitations on Signs for Alcohol Sales

ATTACHMENT D

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## Vargas Elementary

**Legend**

-  200 foot buffer
-  500 foot buffer

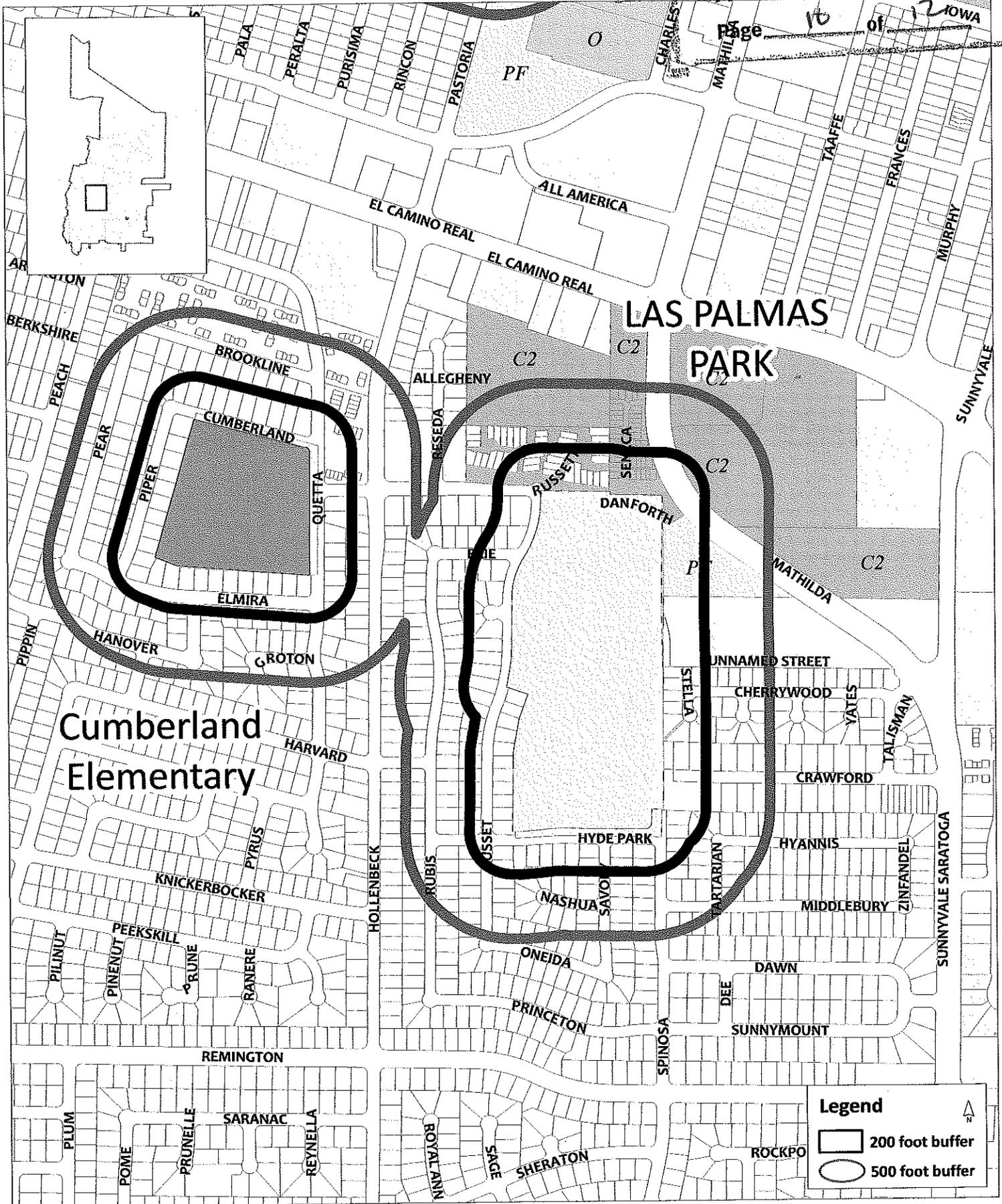


# Non-Residential Zoning Districts near Parks and Schools

Study Issue: Limitations on Signs for Alcohol Sales

ATTACHMENT D

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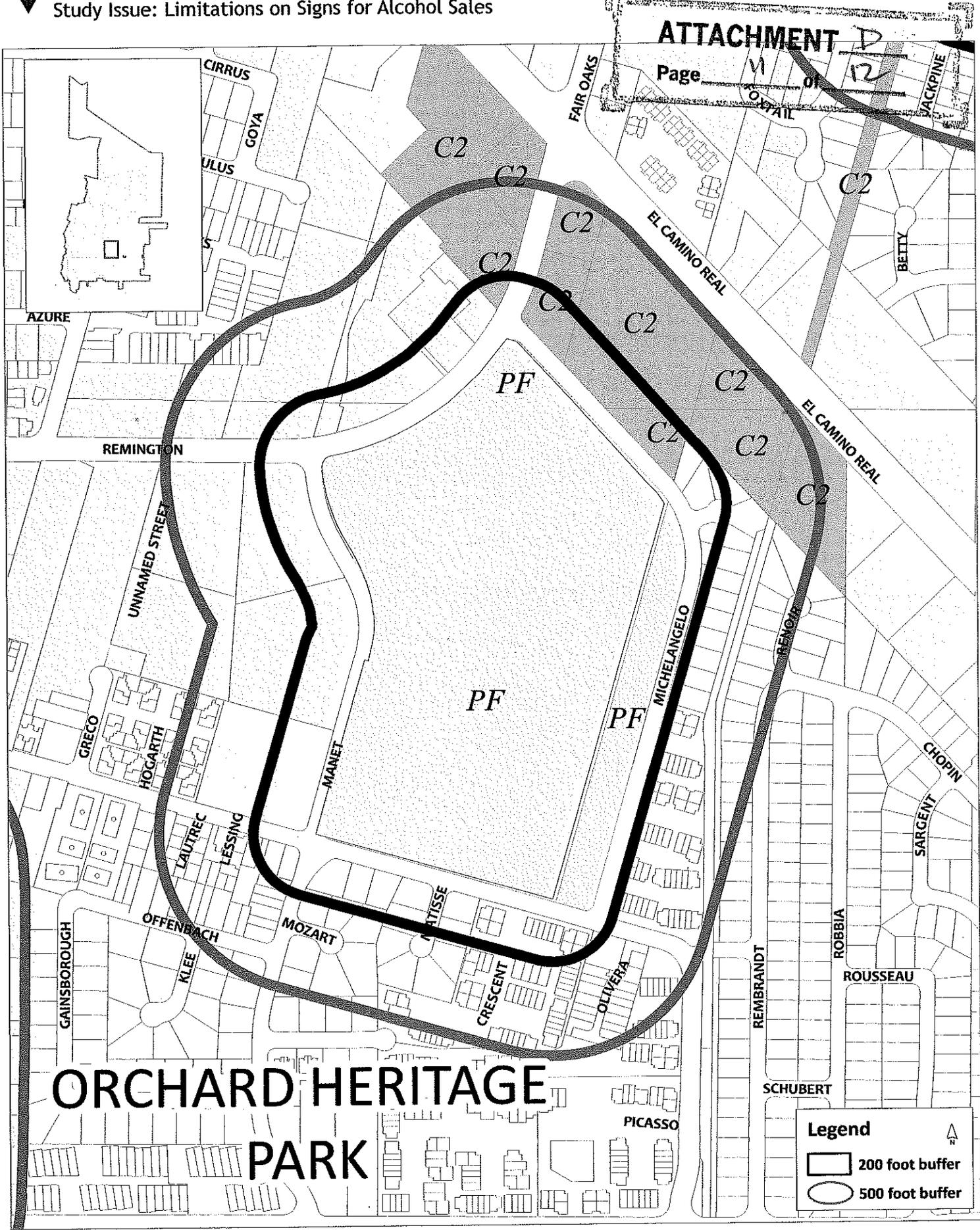


# Non-Residential Zoning Districts near Parks and Schools

Study Issue: Limitations on Signs for Alcohol Sales

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# ORCHARD HERITAGE PARK

**Legend**

- 200 foot buffer
- 500 foot buffer

▲ N



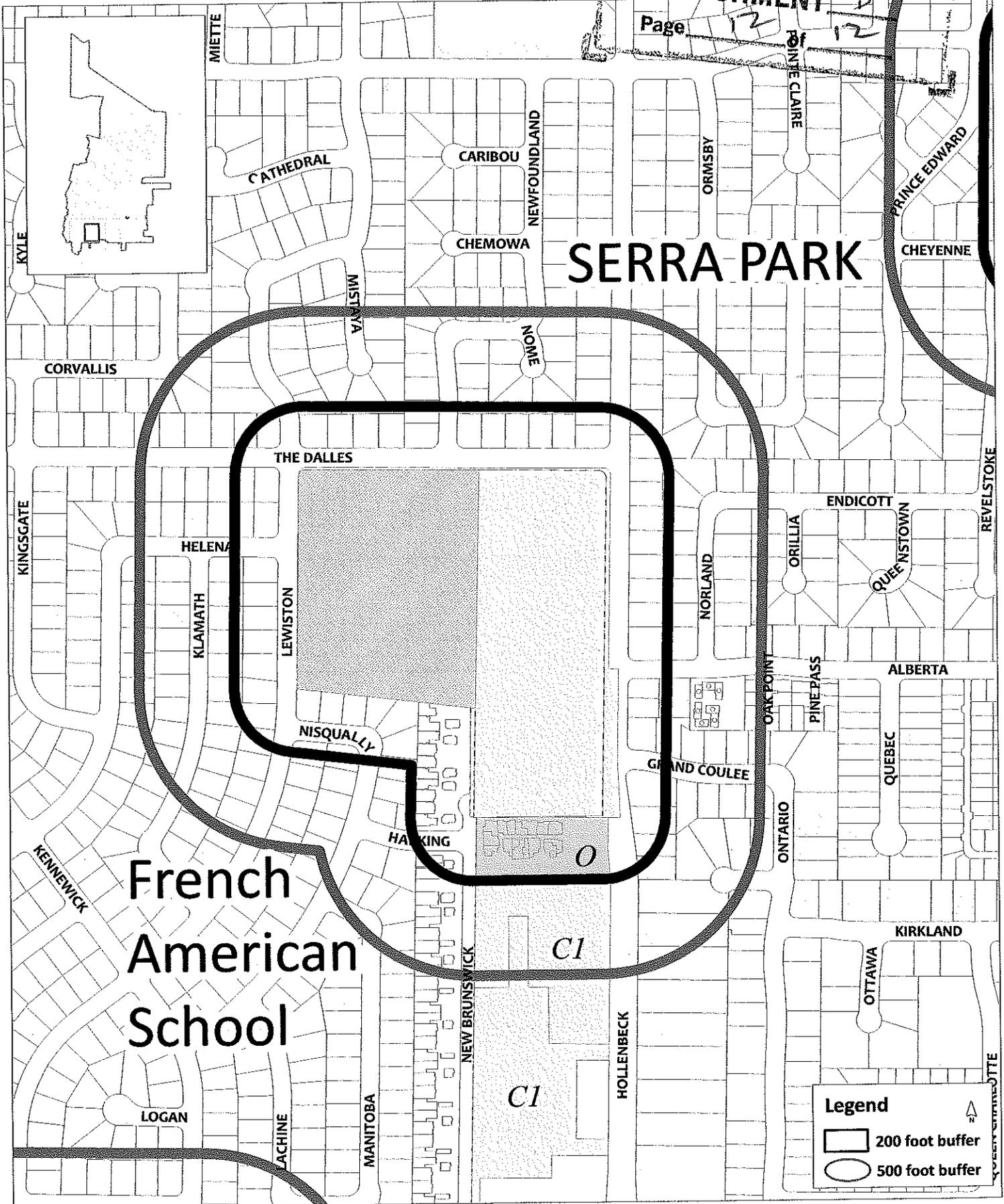
# Non-Residential Zoning Districts near Parks and Schools

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**ORDINANCE NO. \_\_\_\_\_**

**AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF SUNNYVALE AMENDING SECTIONS 19.12.130 ("L") AND 19.12.170 ("P") OF CHAPTER 19.12 (DEFINITIONS) AND TABLE 19.20.030 (PERMITTED, CONDITIONALLY PERMITTED AND PROHIBITED USES IN COMMERCIAL ZONING DISTRICTS) OF CHAPTER 19.20 (COMMERCIAL ZONING DISTRICTS) OF TITLE 19 (ZONING) OF THE SUNNYVALE MUNICIPAL CODE PERTAINING TO ALCOHOL AND ADVERTISING SIGNS**

NOW, THEREFORE, THE CITY COUNCIL OF THE CITY OF SUNNYVALE DOES ORDAIN AS FOLLOWS:

SECTION 1. SECTION 19.12.130 AMENDED. Section 19.12.130 of Chapter 19.12 (Definitions) of Title 19 (Zoning) of the Sunnyvale Municipal Code is hereby amended to read as follows:

**19.12.130. "L"**

(1)–(5) [Text unchanged]

(6) "Liquor store" means any retail business selling distilled spirits or hard liquor for off-premises consumption (Off-Sale General) where at least 25% of the gross floor area of the business is devoted to the sale of alcoholic beverages (which includes beer, wine, and spirits) and related products and accessories (such as but not limited to, bottle openers, barware, equipment for the production and storage of alcoholic beverages).

(6)–(15) [Renumbered (7)–(16), consecutively; text unchanged]

**19.12.170. "P"**

(1)–(9) [Text unchanged]

(10) "Public school site" means any property owned by a public school district that has been developed for use as a school for any level of kindergarten through grade twelve, whether or not there is public school instruction occurring on the property.

(10)–(14) [Renumbered (11)–(15), consecutively; text unchanged]

SECTION 2. TABLE 19.20.030 AMENDED. Table 19.20.030 of Chapter 19.20 (Commercial Zoning Districts) of Title 19 (Zoning) of the Sunnyvale Municipal Code is hereby amended to read as follows:

**TABLE 19.20.030**

**Permitted, Conditionally Permitted and Prohibited Uses in Commercial Zoning Districts**

In the table, the letters and symbols are defined as follows:

**P** = Permitted use

**UP** = Use permit required

MPP = Miscellaneous plan permit  
 N = Not permitted, prohibited

COMMERCIAL ZONING DISTRICTS	C-1	C-2	C-3	C-4
<b>1. Retail Commercial</b>				
A. Bakeries	P <sup>1</sup>	P <sup>1</sup>	P <sup>1</sup>	P <sup>1</sup>
B. Drive-through retail sales businesses, except restaurants	UP	UP	UP	N
C. Retail sales businesses	P <sup>1</sup>	P <sup>1</sup>	P <sup>1</sup>	N
D. Outside display of merchandise or products in connection with a retail sales business	MPP	MPP	MPP	N
E. Donation centers for used goods <sup>2</sup>	MPP	MPP	MPP	MPP
F. Retail liquor stores within 200 feet of public schools	<u>N</u>	<u>P</u>	<u>P</u>	<u>P</u>
G. Retail liquor stores outside 200 feet of public schools	<u>P</u>	<u>P</u>	<u>P</u>	<u>P</u>
[Remainder of table unchanged]				

<sup>1</sup> Uses which are greater than 10,000 square feet, propose significant changes to the exterior of an existing building, or include construction of a new building require a Use Permit.

<sup>2</sup> Donation centers in C-1 are only allowed on sites of 4 or more acres. Miscellaneous Plan Permits for donation centers shall be reviewed for compliance with Council Policy on operations, location and appearance. Within 5 days of approving an MPP for a donation center, the director shall post the subject property providing notice of the date of the approval action. In addition, written notice shall be sent to property owners and occupants of adjacent properties.

<sup>3</sup> Subject to provisions of Chapter 9.41.

<sup>4</sup> Except that daytime and overnight parking of up to five commercial motor vehicles (of a type that are less than 10,000 pounds in gross vehicle weight with not more than two axles) that are owned or operated by the person(s), company or business which conducts the primary use is permitted, provided the vehicles are used for purposes of delivery, pick up or service to patrons of the primary use only, do not utilize on-site required parking and are not utilized for purposes of advertising.

<sup>5</sup> Educational and recreational uses and places of assembly shall not be located in retail centers in a manner that disrupts the flow of pedestrians between retail establishments.

<sup>6</sup> Except caretaker residence ancillary to a permitted use.

<sup>7</sup> Automobile service stations with sale of groceries, beer and wine, or both, require findings as set forth in 19.98.020(i) and/or (j), as applicable.

<sup>8</sup> In the C-4 zoning district, wholesale storage or warehousing is permitted up to 35% FAR, and requires a use permit for >35% FAR.

**SECTION 3. CONSTITUTIONALITY; SEVERABILITY.** If any section, subsection, sentence, clause or phrase of this Ordinance is for any reason held to be invalid by a court of competent jurisdiction, such decision shall not affect the validity of the remaining portions of this ordinance. The City Council hereby declares that it would have passed this ordinance, and each section, subsection, sentence, clause and phrase thereof irrespective of the fact that any one or more sections, subsections, sentences, clauses or phrases be declared invalid.

**SECTION 4. CEQA EXEMPTION.** CEQA - EXEMPTION. The City Council finds, pursuant to Title 14 of the California Code of Regulations, Section 15061(b)(3), that this ordinance is exempt from the requirements of the California Environmental Quality Act (CEQA) in that it is not a Project which has the potential for causing a significant effect on the environment. The Council therefore directs that the Planning Division may file a Notice of Exemption with the Santa Clara County Clerk in accordance with the Sunnyvale Guidelines for the implementation of CEQA adopted by Resolution No. 118-04.

**SECTION 5. EFFECTIVE DATE.** This ordinance shall be in full force and effect thirty (30) days from and after the date of its adoption.

**SECTION 6. POSTING AND PUBLICATION.** The City Clerk is directed to cause copies of this ordinance to be posted in three (3) prominent places in the City of Sunnyvale and to cause publication once in The Sun, the official newspaper for publication of legal notices of the City of Sunnyvale, of a notice setting forth the date of adoption, the title of this ordinance, and a list of places where copies of this ordinance are posted, within fifteen (15) days after adoption of this ordinance.

Introduced at a regular meeting of the City Council held on \_\_\_\_\_, 2009, and adopted as an ordinance of the City of Sunnyvale at a regular meeting of the City Council held on \_\_\_\_\_, 2009, by the following vote:

- AYES:
- NOES:
- ABSTAIN:
- ABSENT:

ATTEST:

APPROVED:

\_\_\_\_\_  
City Clerk  
Date of Attestation: \_\_\_\_\_

\_\_\_\_\_  
Mayor

SEAL

APPROVED AS TO FORM AND LEGALITY:

\_\_\_\_\_  
David Kahn, City Attorney